

REMARKS

In response to the Office Action dated August 22, 2007, Applicants respectfully request reconsideration based on the above amendments and the following remarks.

Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 11-20 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 11 has been amended to reflect the system elements illustrated in Figure 3. It is believed this amendment overcomes the rejection based on non-statutory subject matter.

Claims 1, 2, 11 and 12 were rejected under 35 U.S.C. § 112, second paragraph. Claims 2 and 12 have been canceled without prejudice or disclaimer. Claims 1 and 11 have been amended to address the items raised by the Examiner.

Claims 1-40 were rejected under 35 U.S.C. § 102 as being unpatentable over Kline. This rejection is traversed for the following reasons.

Claim 1 recites “wherein the averages are computed for a cluster of switches that is a community of interest with a locality of communication access pattern such that there is less communications traffic across a boundary between the cluster of switches and other switches not in the cluster than communications traffic between switches in the cluster.” Support for this feature is found on at least paragraph [0049] of Applicants’ specification. As described, this grouping in clusters allows for more efficient forecasting.

Kline fails to teach this feature. Kline teaches collecting trunk data, but fails to teach grouping switches into clusters for the purposes of computing averages for the cluster. Kline collects data across all devices, not clusters as recited in claim 1. Thus, Kline cannot anticipate claim 1.

For at least the above reasons, claim 1 is patentable over Kline. Claims 3, 6, and 8-10 variously depend from claim 1 and are patentable over Kline for at least the reasons advanced with reference to claim 1. Claims 11, as amended, recites features similar to those discussed above with reference to claim 1 and is patentable over Kline for at least the reasons advanced with reference to claim 1. Claims 13, 16 and 18-20 depend from claim 11 and are considered patentable for at least the same reasons.

Claims 4 and 14 were rejected under 35 U.S.C. § 103 as being unpatentable over Kline in view of Fitzgerald. This rejection is traversed for the following reasons.

Fitzgerald was relied upon for disclosing measuring traffic as a base unit of bandwidth, but fails to cure the deficiencies of Kline discussed above with reference to claims 1 and 11. Claims 4 and 14 depend from claims 1 and 11, respectively, and are patentable over Kline in view of Fitzgerald for at least the reasons advance with reference to claims 1 and 11.

Claims 5 and 15 were rejected under 35 U.S.C. § 103 as being unpatentable over Kline in view of Erlang. This rejection is traversed for the following reasons.

Erlang was relied upon for disclosing a metric that is based on a count of a plurality of connections multiplied by a duration of each connection, but fails to cure the deficiencies of Kline discussed above with reference to claims 1 and 11. Claims 5 and 15 depend from claims 1 and 11, respectively, and are patentable over Kline in view of Erlang for at least the reasons advance with reference to claims 1 and 11.

Claims 7 and 17 were rejected under 35 U.S.C. § 103 as being unpatentable over Kline. This rejection is traversed for the following reasons.

The Examiner relied on “design choice” in finding that it would have been obvious to compute a plurality of forecasts using a plurality of models. This analysis of Kline fails to cure the deficiencies of Kline discussed above with reference to claims 1 and 11. Claims 7 and 17 depend from claims 1 and 11, respectively, and are patentable over Kline for at least the reasons advance with reference to claims 1 and 11.

In view of the foregoing remarks and amendments, Applicants submit that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130.

Respectfully submitted,

By: 

David A. Fox
Registration No. 38,807
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002
Telephone (860) 286-2929
Facsimile (860) 286-0115
Customer No. 36192

Date: November 19, 2007